

# Senate Amendment 5347

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1 1 Amend Senate File 2416 as follows:  
1 2 #1. Page 6, by inserting after line 33 the  
1 3 following:  
1 4 <DIVISION \_\_\_\_  
1 5 PUBLIC CONTRACTS AND EMPLOYMENT  
1 6 Sec. \_\_\_\_\_. Section 8A.413, Code 2007, is amended by  
1 7 adding the following new subsection:  
1 8 NEW SUBSECTION. 23. For determining the work  
1 9 eligibility status of employees by requiring  
1 10 utilization of a status verification system as defined  
1 11 in section 73A.22.  
1 12 Sec. \_\_\_\_\_. NEW SECTION. 73A.22 STATE ASSISTANCE  
1 13 RESTRICTIONS == PERSONS EMPLOYING UNAUTHORIZED ALIENS.  
1 14 1. a. For purposes of this section,  
1 15 "developmental assistance" means any form of public  
1 16 assistance, including tax expenditures, made for the  
1 17 purpose of stimulating the economic development of a  
1 18 corporation, industry, geographic jurisdiction, or any  
1 19 other sector of the state's economy, including but not  
1 20 limited to industrial development bonds, training  
1 21 grants, loans, loan guarantees, enterprise zones,  
1 22 empowerment zones, tax increment financing, fee  
1 23 waivers, land price subsidies, infrastructure  
1 24 constructed or improved for the benefit of a single  
1 25 business or defined group of businesses at the time it  
1 26 is built or improved, matching funds, tax abatements,  
1 27 tax credits and tax discounts of every kind, including  
1 28 corporate, franchise, personal income, sales and use,  
1 29 raw materials, real property, job creation, individual  
1 30 investment, excise, utility, inventory, accelerated  
1 31 depreciation, and research and development tax credits  
1 32 and discounts.  
1 33 b. For purposes of this section, "status  
1 34 verification system" means an electronic system  
1 35 operated by the federal government utilized to verify  
1 36 or ascertain the citizenship or immigration status of  
1 37 any individual and includes any of the following:  
1 38 (1) The electronic verification of work  
1 39 authorization program under the federal Illegal  
1 40 Immigration Reform and Immigration Responsibility Act  
1 41 of 1996, and operated by the United States department  
1 42 of homeland security.  
1 43 (2) Any federal program designated by the United  
1 44 States department of homeland security or any other  
1 45 federal agency authorized to verify the work  
1 46 eligibility status of newly hired employees, pursuant  
1 47 to the federal Immigration Reform and Control Act of  
1 48 1986.  
1 49 (3) Any independent, third-party system with an  
1 50 equal or higher degree of reliability as the programs,  
2 1 systems, or processes described in this paragraph "b".  
2 2 (4) The social security number verification  
2 3 service, or such similar online verification process  
2 4 implemented by the United States social security  
2 5 administration.  
2 6 2. A state department, institution, or agency, or  
2 7 any board member, commissioner, director, manager, or  
2 8 other person connected with any such department,  
2 9 institution, or agency, shall not award a contract or  
2 10 provide developmental assistance to an employer if the  
2 11 employer or corporate officer of the employer has  
2 12 failed to ascertain the status of its employees  
2 13 through a status verification system.  
2 14 3. Any contract or developmental assistance  
2 15 awarded shall provide that if, during the effective  
2 16 period of the contract or developmental assistance,  
2 17 the vendor, contractor, subcontractor, or  
2 18 developmental assistance recipient fails to utilize a  
2 19 status verification system, the contract or  
2 20 developmental assistance shall be terminated.  
2 21 4. A state department, institution, or agency may  
2 22 enforce its rights under this section by instituting a  
2 23 civil action in district court in this state. In  
2 24 addition, a state department, institution, or agency

2 25 shall not award a contract or provide developmental  
2 26 assistance to any person who violates this section for  
2 27 a period of five years after the date of the  
2 28 violation.

2 29 DIVISION \_\_\_\_  
2 30 STATE PUBLIC ASSISTANCE  
2 31 Sec. \_\_\_\_ NEW SECTION. 73A.23 STATE ASSISTANCE  
2 32 RESTRICTIONS == UNAUTHORIZED ADULT ALIENS ==  
2 33 PENALTIES.

2 34 1. For purposes of this section, unless the  
2 35 context otherwise requires:

2 36 a. "State aid" means any form of financial  
2 37 benefit, aid, or assistance provided to a person by a  
2 38 state department, institution, or agency.

2 39 b. "Unauthorized adult alien" means a person who  
2 40 is eighteen years of age or older and who is not a  
2 41 citizen or legal resident of, and who has not been  
2 42 lawfully admitted to the United States for permanent  
2 43 residence or who is not authorized to work in the  
2 44 United States.

2 45 2. A state department, institution, or agency  
2 46 shall not provide any state aid to an unauthorized  
2 47 adult alien.

2 48 To ascertain whether a person is eligible for state  
2 49 aid pursuant to the requirements of this section, the  
2 50 state department, institution, or agency shall verify,  
3 1 if possible, a person's eligibility for benefits  
3 2 through the federal systematic alien verification for  
3 3 entitlements program operated by the United States  
3 4 department of homeland security or an equivalent  
3 5 program designated by the United States department of  
3 6 homeland security.

3 7 3. A person who makes a false statement or  
3 8 representation as to whether the person is an  
3 9 unauthorized adult alien knowing it to be false or  
3 10 knowingly fails to disclose this fact, to obtain or  
3 11 increase any state aid in violation of this section,  
3 12 is guilty of a fraudulent practice as defined in  
3 13 sections 714.8 to 714.14. The total amount of state  
3 14 aid involved in the completion of or in the attempt to  
3 15 complete a fraudulent practice shall be used in  
3 16 determining the value involved under section 714.14.

3 17 DIVISION \_\_\_\_  
3 18 POSTSECONDARY INSTITUTIONS  
3 19 Sec. \_\_\_\_ Section 260C.14, Code 2007, is amended  
3 20 by adding the following new subsection:

3 21 NEW SUBSECTION. 22. Require an individual who  
3 22 submits an application for admission to the community  
3 23 college to provide proof of United States citizenship  
3 24 or proof that the individual is lawfully present in  
3 25 the United States. An individual who cannot provide  
3 26 such proof shall not be admitted by the community  
3 27 college as a student. The department of education  
3 28 shall annually calculate the education funding per  
3 29 student for community colleges. State assistance to a  
3 30 community college for a fiscal year shall be reduced  
3 31 by the education funding per student amount calculated  
3 32 for community colleges multiplied by the number of  
3 33 students enrolled in the community college in the  
3 34 prior fiscal year who failed to provide proof as  
3 35 required under this subsection. This section shall  
3 36 not apply to students who are taking courses offered  
3 37 by the community college under the provisions of  
3 38 section 257.11 or under the provisions of chapter  
3 39 261C.

3 40 Sec. \_\_\_\_ Section 262.9, Code Supplement 2007, is  
3 41 amended by adding the following new subsection:

3 42 NEW SUBSECTION. 32. Direct each of the  
3 43 institutions of higher education under the board's  
3 44 control to require an individual who submits an  
3 45 application for admission to the institution to  
3 46 provide proof of United States citizenship or proof  
3 47 that the individual is lawfully present in the United  
3 48 States. An individual who cannot provide such proof  
3 49 shall not be admitted by the institution as a student.  
3 50 The department of education shall annually calculate  
4 1 the education funding per student for regents  
4 2 universities. State assistance to an institution for  
4 3 a fiscal year shall be reduced by the education  
4 4 funding per student amount calculated for regents  
4 5 universities multiplied by the number of students

4 6 enrolled in the institution in the prior fiscal year  
4 7 who failed to provide proof as required under this  
4 8 subsection. This section shall not apply to students  
4 9 who are taking courses offered by the institution  
4 10 under the provisions of chapter 261C.

4 11 Sec. \_\_\_\_\_. APPLICABILITY. Notwithstanding section  
4 12 260C.14, subsection 22, as enacted by this Act, and  
4 13 section 262.9, subsection 32, as enacted by this Act,  
4 14 state assistance to an institution shall not be  
4 15 reduced as provided in those subsections on the basis  
4 16 of students who were enrolled in a community college  
4 17 or regents university on or before January 1, 2009.

4 18 DIVISION \_\_\_\_  
4 19 IDENTIFICATION CARDS

4 20 Sec. \_\_\_\_\_. Section 321.177, Code 2007, is amended  
4 21 by adding the following new subsection:

4 22 NEW SUBSECTION. 10. To any person who is an  
4 23 unauthorized alien as defined in section 710B.1

4 24 Sec. \_\_\_\_\_. Section 321.190, subsection 1, Code  
4 25 2007, is amended by adding the following new  
4 26 paragraph:

4 27 NEW PARAGRAPH. e. The department shall not issue  
4 28 a card to a person who is an unauthorized alien as  
4 29 defined in section 710B.1.

4 30 DIVISION \_\_\_\_  
4 31 LOCAL GOVERNMENT

4 32 Sec. \_\_\_\_\_. Section 331.304A, Code 2007, is amended  
4 33 by adding the following new subsection:

4 34 NEW SUBSECTION. 3. A county shall not adopt or  
4 35 enforce county legislation prohibiting a peace  
4 36 officer, county official, or county employee from  
4 37 communicating or cooperating with federal officials  
4 38 with regard to the immigration status of any person  
4 39 within the state. County officials who vote to  
4 40 approve such county legislation may be personally  
4 41 liable under section 670.12 for damages resulting from  
4 42 enforcement of the county legislation.

4 43 Sec. \_\_\_\_\_. Section 364.3, Code 2007, is amended by  
4 44 adding the following new subsection:

4 45 NEW SUBSECTION. 10. A city shall not adopt or  
4 46 enforce an ordinance prohibiting a peace officer, city  
4 47 official, or city employee from communicating or  
4 48 cooperating with federal officials with regard to the  
4 49 immigration status of any person within the state.  
5 1 City officials who vote to approve such an ordinance  
5 2 may be personally liable under section 670.12 for  
5 3 damages resulting from enforcement of the county  
5 4 legislation.

5 5 Sec. \_\_\_\_\_. Section 670.12, Code 2007, is amended to  
5 6 read as follows:

5 7 670.12 OFFICERS AND EMPLOYEES == PERSONAL  
5 8 LIABILITY.

5 9 All officers and employees of municipalities are  
5 10 not personally liable for claims which are exempted  
5 11 under section 670.4, except claims for punitive  
5 12 damages, claims for damages pursuant to section  
5 13 331.304A, subsection 3, or section 364.3, subsection  
5 14 10, and actions permitted under section 85.20. An  
5 15 officer or employee of a municipality is not liable  
5 16 for punitive damages as a result of acts in the  
5 17 performance of a duty, unless actual malice or  
5 18 willful, wanton and reckless misconduct is proven.

5 19 DIVISION \_\_\_\_  
5 20 PRISONERS

5 21 Sec. \_\_\_\_\_. Section 356.2, Code 2007, is amended to  
5 22 read as follows:

5 23 356.2 DUTY.

5 24 1. The sheriff shall have charge and custody of  
5 25 the prisoners in the jail or other prisons of the  
5 26 sheriff's county, and shall receive those lawfully  
5 27 committed, and keep them until discharged by law.

5 28 2. Upon confinement of a prisoner in the jail, the  
5 29 sheriff shall make a reasonable effort to determine  
5 30 whether the person is an unauthorized alien as defined  
5 31 in section 710B.1. If the sheriff has reason to  
5 32 believe that the prisoner is an unauthorized alien or  
5 33 is unable to determine whether the prisoner is an  
5 34 unauthorized alien, the sheriff shall notify United  
5 35 States immigration and customs enforcement of the  
5 36 United States department of homeland security.

5 37 Sec. \_\_\_\_\_. NEW SECTION. 904.501A ASCERTAINMENT OF

5 37 STATUS.

5 38 The superintendent of each institution shall,  
5 39 within ten days after the commitment or entrance of a  
5 40 person to the institution, make a reasonable effort to  
5 41 determine whether the person is an unauthorized alien  
5 42 as defined in section 710B.1. If the superintendent  
5 43 has reason to believe that the person is an  
5 44 unauthorized alien or is unable to determine whether  
5 45 the person is an unauthorized alien, the  
5 46 superintendent shall notify United States immigration  
5 47 and customs enforcement of the United States  
5 48 department of homeland security.

5 49 DIVISION \_\_\_\_\_

5 50 TRANSPORTATION OF UNAUTHORIZED ALIENS

6 1 Sec. \_\_\_\_\_. NEW SECTION. 710B.1 TRANSPORTATION AND  
6 2 CONCEALMENT OF UNAUTHORIZED ALIENS.

6 3 1. It shall be unlawful for any person to  
6 4 transport, move, conceal, harbor, or shelter, or  
6 5 attempt to transport, an unauthorized alien in this  
6 6 state knowing or in reckless disregard of the fact  
6 7 that the person is an unauthorized alien.

6 8 2. For purposes of this section, an "unauthorized  
6 9 alien" means a person who is not a citizen or legal  
6 10 resident and who has not been lawfully admitted to the  
6 11 United States pursuant to federal law.

6 12 3. A person who violates this section commits a  
6 13 class "D" felony.

6 14 DIVISION \_\_\_\_\_

6 15 MEMORANDUM OF UNDERSTANDING TO ENFORCE IMMIGRATION LAW

6 16 Sec. \_\_\_\_\_. MEMORANDUM OF UNDERSTANDING ==

6 17 ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

6 18 1. The attorney general is authorized and directed  
6 19 to negotiate the terms of a memorandum of  
6 20 understanding between the state of Iowa and the United  
6 21 States department of justice or the United States  
6 22 department of homeland security concerning the  
6 23 enforcement of federal immigration and custom laws,  
6 24 detention removals, and investigations in the state of  
6 25 Iowa.

6 26 2. The memorandum of understanding negotiated  
6 27 pursuant to subsection 1 shall be signed on behalf of  
6 28 this state by the attorney general and the governor or  
6 29 as otherwise required by the appropriate federal  
6 30 agency but shall not be implemented until money is  
6 31 appropriated for such purpose.

6 32 3. A local government, whether acting through its  
6 33 governing body or by an initiative, referendum, or any  
6 34 other process, shall not enact any ordinance,  
6 35 resolution, or policy that limits or prohibits a law  
6 36 enforcement officer, local officer, or local  
6 37 government employee from communicating or cooperating  
6 38 with federal officials with regard to the immigration  
6 39 status of any person within this state.

6 40 4. Notwithstanding any other provision of law, a  
6 41 government entity or official within the state of Iowa  
6 42 shall not prohibit, or in any way restrict, any  
6 43 government entity or official from sending to, or  
6 44 receiving from, the United States department of  
6 45 homeland security, information regarding the  
6 46 citizenship or immigration status, lawful or unlawful,  
6 47 of any individual.

6 48 5. Notwithstanding any other provision of law, no  
6 49 person or agency may prohibit, or in any way restrict,  
6 50 a public employee from doing any of the following with  
7 1 respect to information regarding the immigration  
7 2 status, lawful or unlawful, of any individual:

7 3 a. Sending such information to, or requesting or  
7 4 receiving such information from, the United States  
7 5 department of homeland security.

7 6 b. Maintaining such information.

7 7 c. Exchanging such information with any other  
7 8 federal, state, or local government entity.

7 9 6. Any natural or legal person lawfully domiciled  
7 10 in this state may file for a writ of mandamus to  
7 11 compel any noncooperating local or state governmental  
7 12 agency to comply with this section.

7 13 DIVISION \_\_\_\_\_

7 14 IMPLEMENTATION

7 15 Sec. \_\_\_\_\_. IMPLEMENTATION OF ACT. Section 25B.2,  
7 16 subsection 3, shall not apply to this Act.>

7 17 #2. By striking page 6, line 34, through page 16,

7 18 line 30.  
7 19 [#3.](#) Title page, line 1, by inserting after the  
7 20 word <to> the following: <unauthorized aliens and>.  
7 21 [#4.](#) Title page, lines 1 and 2, by striking the  
7 22 words <and employment classification>.  
7 23 [#5.](#) Title page, line 3, by inserting after the  
7 24 word <employers> the following: <, providing  
7 25 penalties and an applicability date,>.  
7 26 [#6.](#) By renumbering as necessary.  
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